

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 226

House Bill No. 890

by deleting the language "now, therefore," in the preamble, substituting the word "and" and by adding the following language:

WHEREAS, the experience of other states and cities demonstrates that reasonable restrictions on closing hours, as contained in this act, are beneficial and necessary as a means of reducing and curtailing deleterious secondary effects of adult-oriented establishments, including crime, noise, traffic congestion, police response time and efforts, parking problems, sexual disease, sexual activity, and discarded pornographic material on neighboring properties; and

WHEREAS the Supreme Court in City of Renton v. Playtime Theaters. Inc., 475 U.S. 41, 50-52 (1986), held that states and cities may rely on the experiences of other communities to prevent or reduce the attendant harmful secondary effects of adult-oriented establishments and sexually oriented businesses, rather than await the impact of such effects, and whereas several courts have upheld similar restrictions on hours of operations of such establishments and businesses, including: Mitchell v. Commission on Adult Entertainment, 802 F.Supp. 1112 (D. Del. 1992), affirmed at 10 F.3d 123 (3rd Cir. 1993); Ellwest Stores v. Boner, 718 F.Supp. 1553, 1577 (M.D. Tenn. 1989) (law is difficult to enforce and police in middle of night); Star Satellite. Inc. v. City of Biloxi, 779 F.2d 1074 (5th Cir. 1986); Broadway Books. Inc. v. Roberts, 642 F.Supp. 486, 491 (E.D. Tenn. 1986) (law furthers legitimate law enforcement purpose), and that, therefore, such restrictions are lawful and proper to adopt in this State, and

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 226

House Bill No. 890

WHEREAS, several courts have upheld restrictions on the configuration and viewability of the peep show motion picture viewing booths in adult-oriented establishments and sexually oriented businesses as a means of controlling and preventing the spread of sexual and communicable diseases, public and unhealthy sexual activities, and ;unlawful sexual conduct in such booths, including: Libra Books Inc. v. City of Milwaukee, 818 F.Supp. 263 (E.D. Wisc. 1993); City News & Novelty v. City of Waukesha, 487 N.W.2d 316 (Wisc. App. 1992); Bamon Corp. v. City of Dayton, 923 F.2d 470 (6th Cir. 1991); Movie & Video World v. Board of County Commissioners, 723 F.Supp. 695 (E.D. Tenn. 1989); Ellwest Stereo Theatre. Inc. v. Boner, 718 F.Supp. 1553 (M.D. Tenn. 1989) (Nashville open booth law upheld to prevent prostitution, sexual conduct, diseases); Berg v. Health and Hospital Corp. of Marion County, 865 F.2d 797 (7th Cir. 1988); FW/PBS Inc. v. City of Dallas, 837 F.2d 1298 (5th Cir. 1988); Postscript Enterprises v City of Bridgeton, 699 F.Supp. 1393 (E.D. Mo. 1988); Suburban Video Inc. v. City of Delafield, 694 F.Supp. 585 (E.D. Wisc.1988); Doe v City of Minneapolis, 693 F.Supp. 774 (D. Minn. 1988); Wall Distributors. Inc. v. City of Newport News, 782 F.2d 1165 (4th Cir. 1986); Broadway Books. Inc. v. Roberts, 642 F.Supp. 486, 492 (E.D. Tenn S.D. 1986) (Chattanooga open booth law upheld); Moody v. Board of County Commissioners, 697 P.2d 1310 (Kan. 1985); Ellwest Stereo Theatres Inc. v. Wenner, 681 F.2d 1243 (9th Cir. 1982); EWAP. Inc. v. City of Los Angeles, 158 Cal.Rptr. 579 (Cal. App. 1979), and that, therefore, such restrictions are lawful and proper to adopt in this State; and

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 226

House Bill No. 890

WHEREAS, adult-oriented establishments, also known as sexually oriented-businesses, require special supervision from public safety and health agencies in order to protect and preserve the health, safety, and welfare of the patrons of such businesses as well as citizens of the State and of the city and county in which they are located; and

WHEREAS, the General Assembly and staff have conducted an extensive review of land use studies concerning the secondary effects of adult-oriented establishments and sexually oriented businesses in other cities including, but not limited to, Garden Grove, California (1991); Phoenix, Arizona (1986); Minneapolis, Minnesota (1980); Houston, Texas (1983); Indianapolis, Indiana (1984); Amarillo, Texas (1977); City of Los Angeles, California (1977); Cleveland, Ohio (1977); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma City (1986); Beaumont, Texas (1982); and Whittier, California (1978); and considered the experience of citizens and public officials in their States; and

WHEREAS, from review of other cities' studies and evidence from this State, there is convincing documented evidence that adult-oriented establishments, because of their very nature, have a deleterious effect on existing businesses around them, the surrounding residential areas, and the public at large, causing among other adverse secondary effects, increased crime, downgrading of property values, and spread of sexually transmitted and communicable diseases; and

WHEREAS, it is recognized that adult-oriented establishments, due to their nature, have serious objectionable operational characteristics, including location, hours of operation, and

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 226

House Bill No. 890

physical layout of the establishment, thereby contributing to crime, disease, lower property values, urban blight and downgrading of the quality of life; and

WHEREAS, it is recognized that adult-oriented establishments are frequently used for unlawful and/or dangerous sexual activities, including prostitution, indecent exposure, and public or indiscriminate masturbation and sexual conduct; and

WHEREAS, increased crime and unhealthful conduct tend to accompany, concentrate around, and be aggravated by adult-oriented establishments, including but not limited to prostitution, pandering, unprotected or indiscriminate sexual conduct and masturbation, distribution of obscene materials and child pornography, possession and sale of controlled substances, violent crimes against persons, property crimes, and exposing minors to harmful materials; and

WHEREAS, concern over sexually transmitted diseases, including AIDS, is a legitimate health concern of the State which demands reasonable regulations of adult-oriented establishments in order to protect the health and well being of the citizens; now, therefore, AND FURTHER AMEND by adding the following language as a new, appropriately numbered section immediately preceding the effective date section, and by renumbering the effective date section accordingly:

SECTION _____. Nothing in this act shall pre-empt or prevent political subdivisions in this State from enacting and enforcing other lawful and reasonable restrictions, regulations, licensing, zoning, and other criminal, civil, or administrative provisions

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. **226** _____ House Bill No. **890** _____

concerning the location, configuration, code compliance, or other business operations or requirements of adult-oriented establishments and sexually oriented businesses.